

**BARCLAY DAMON** LLP

**Michael J. Sciotti**  
*Partner*

June 14, 2022

**VIA CM/ECF**

Honorable Thérèse Wiley Dancks  
United States Magistrate Judge  
United States District Court, Northern District of New York  
100 S. Clinton Street  
Syracuse, NY 13261

Re: Jane Doe #1 et al v. Café CaNole, Inc. et al  
United States District Court – Northern District of New York  
Civil Action No. 6:22-CV-347 (GTS/TWD)

Dear Magistrate Judge Dancks:

As you know, Barclay Damon LLP represents Defendants in the above-referenced matter.

On April 13, 2022 Plaintiffs’ filed a Complaint with this Court. See Dkt. No. 1-1. Plaintiffs (three former female employees of Defendant Café CaNole, Inc.) did so using pseudonyms Jane Doe #1, Jane Doe #2 and Jane Doe #3. The identity of the Plaintiffs’ is known to the Defendants as they did not use pseudonyms when they filed Charges of Discrimination with the United States Equal Employment Opportunity Commission (“EEOC”). At no point prior to filing the Complaint had Plaintiffs’ sought permission from the Court to proceed using pseudonyms. Further, since filing the Complaint, Plaintiffs have taken no action to request approval from the Court to use pseudonyms. Rather, in the Complaint, Plaintiffs’ make unsworn legal arguments to justify the use of pseudonyms. Id. at ¶¶ 5-6. Defendants interpret these unsworn legal arguments as a motion to proceed using pseudonyms.


Defendants accepted service of the Complaint by executing a Waiver of a Service of the Summons. See Dkt. No. 4. On June 13, 2022 Defendants filed a motion to (1) dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (“FRCP”); (2) strike pursuant to FRCP 12(f); and (3) for a more definitive statement under FRCP 12(e). See Dkt. No. 8. After filing said motion, the Defendants then filed a Motion to Dismiss in Opposition to Plaintiffs’ Attempt to Proceed Under Pseudonyms. See Dkt. No. 9. Defendants’ motion requests dismissal of the Complaint due to Plaintiffs’ failure to follow requirements for proceeding anonymously. Specifically, Defendants filed this motion in response to Plaintiffs’ assumed use of pseudonyms in the Complaint without filing a proper motion to do so.

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Defendants maintain this motion is dispositive given the Court has the ability to dismiss the Complaint filed due to the failure of the Plaintiffs to request permission to proceed using pseudonyms. However, if the Court views the motion as non-dispositive, Defendants request a *nunc pro tunc* Order that the Court approve the filing of this motion without a good faith conferral with Plaintiffs' counsel or a conference with the Court.

Thank you for your consideration.

Respectfully submitted,

DocuSigned by:  
  
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Michael J. Sciotti  
Bar Roll No.: 501327

cc: All Counsel of Record (via CM/ECF)